

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN WILLIAM CRISMORE**, on March 10, 1999
at 3:20 P.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. William Crismore, Chairman (R)
Sen. Dale Mahlum, Vice Chairman (R)
Sen. Vicki Cocchiarella (D)
Sen. Mack Cole (R)
Sen. Lorents Grosfield (R)
Sen. Tom Keating (R)
Sen. Bea McCarthy (D)
Sen. Ken Miller (R)
Sen. Glenn Roush (D)
Sen. Mike Taylor (R)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Larry Mitchell, Legislative Branch
Jyl Scheel, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 96, 3/10/1999; HB 74,
3/10/1999; HJ 8, 3/10/1999; HJ
11, 3/10/1999; HJ 17,
3/10/1999
Executive Action: HB 331; HB 58; HB 142

HEARING ON HB 96

Sponsor: REPRESENTATIVE LARRY GRINDE, HD 94, LEWISTOWN

Proponents:

Bud Clinch, Director, Department of Natural Resources and Conservation

Opponents: None.

Opening Statement by Sponsor:

REPRESENTATIVE LARRY GRINDE, HD 94, LEWISTOWN, stated **HB 96** deals with reciprocal access agreements to be negotiated on isolated state land classifications. In 1995 a similar bill was passed that had to do with classified forest lands and this now deals with all classifications of land. The bill is completely voluntary, negotiation is done between DNRC and the landowner, it is quicker and cheaper and most importantly the State Land Board has the ultimate say.

Proponents' Testimony:

Bud Clinch, Director, Department of Natural Resources and Conservation, stated this bill replicates a bill in the 1995 session which has worked extremely well. The purpose behind the bill is that it removes the necessity of exchanging money when easements are requested by the state when purchasing them from the landowner or when the present landowner requests an easement across state land. From the Department's standpoint, it provides a point of leverage to be able to quantify and secure easements in a reciprocal manner that they might not have been able to do otherwise. It is voluntary and a management tool that is beneficial to both parties.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

SENATOR COCCHIARELLA questioned what was repealed in 77-5-115? **Mr. Clinch** stated they are repealing the previous section that outlined the program just for classified forest lands and replacing it with this where it references all classifications of state lands.

Closing by Sponsor:

REPRESENTATIVE LARRY GRINDE, HD 94, LEWISTOWN, stated he felt this was good legislation. It helps the private landowner negotiate reciprocal agreements with the agency and the reason he carried the bill.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 4.4; Comments : None.}

HEARING ON HB 74

Sponsor: REPRESENTATIVE DOUG MOOD, HD 58, SEELEY LAKE

Proponents:

Anna Miller, Department of Natural Resources and Conservation
Tom Livers, Department of Environmental Quality
Alec Hansen, Montana League of Cities and Towns
Lucy Gallus, Montana Rural Water Systems, Inc.

Opponents: None

Opening Statement by Sponsor:

REPRESENTATIVE DOUG MOOD, HD 58, SEELEY LAKE, stated HB 74 deals with the state revolving loan fund program that was first authorized in Montana in 1991. At that time it was set up for wastewater projects only. In the last session legislation was carried to expand the program to include drinking water projects as well as wastewater projects. To date, approximately \$70 million dollars in loans and proposals have been given out by the Department. He handed out a list of communities that have participated as per **EXHIBIT (nas54a01)** as well as letters supporting the program from various cities as per **EXHIBIT (nas54a02)**. This bill makes some minor, but very important changes, to existing statute. It allows the Department, under certain circumstances, to transfer funds back and forth between the wastewater and drinking water programs as needs changes. It also increases the bonding authority of the Department from \$10 million to \$20 million. These are general obligation bonds which provide the state with funds they need to match the federal grants available.

Proponents' Testimony:

Anna Miller, Department of Natural Resources and Conservation, stated they administer this program along with the Department of Environmental Quality. The Department of Natural Resources and Conservation makes the loans to the communities and DEQ does the technical review of the projects. It provides an excellent low financing cost tool to communities to be able to rehabilitate and put in new water systems. This bill helps the Department through allowing them to move money between the wastewater and drinking water programs in the event money is being used in one program

and not the other. It increases their bonding authority and they are allowed to keep \$5 million. That money is then revolved and they can use it again for projects in the future.

Tom Livers, Department of Environmental Quality, stated their Department handles the technical aspects of the program. They also stand in support of the bill.

Alec Hansen, Montana League of Cities and Towns, spoke in support of the bill. There are about a billion dollars worth of water and sewer projects that will need to be done over the next 10-12 years in Montana. They will not be able to be funded through rates alone. With the bonding authority increased from \$10 million to \$20 million, federal grant monies are available at a ratio of 5:1. The additional \$50 million in federal funds go into the revolving loan fund where cities and counties can apply for a low interest loan. When the loan is repaid, the whole account stays in place and can be used again and again. He encourages the committee's support.

Lucy Gallus, Montana Rural Water Systems, Inc., spoke in support of **HB 74**. They rely on this fund to provide the low-cost financing for their essential wastewater and drinking water projects. They appreciate the committee's favorable consideration of this bill.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

SENATOR KEATING question if there is any arbitrage on the general obligation bonds? **Ms. Miller** said the state does have to do an arbitrage calculation every year and file with the IRS what the rebate is. Because they loan this money at a fairly low rate, there has only been one calculation where they had to pay the IRS. **SEN. KEATING** asked if the arbitrage was a plus to the state? **Ms. Miller** stated arbitrage was not necessarily a plus because if interest is earned over the yield rate on the bonds, they have to pay that to the IRS. They keep the federal money but cannot keep the earnings from it. **SEN. KEATING** asked what was used for servicing the administrative cost in this program? **Ms. Miller** said they use the 4% interest rate on the program. Of that 4%, .25% goes to pay the administrative costs of the bonds, 2.25% pays off the general obligation bonds and 1% is put into a loan loss reserve account. This is a security account so if any community does not pay their bond payment the Department can make a payment for them. **SEN. KEATING** said it is a well managed program.

SENATOR COCCHIARELLA asked for an explanation of the 3% Disadvantage Community Loans. **Ms. Miller** said for some of the communities in Montana, the rate will be almost \$40 per month. DNRC takes the target rate that is prescribed by the Community Development Block Grant program which is about \$28. Any community which applies to them that is over the \$28 rate, they have a certain amount of money they will do a 3% loan to waive the loan loss reserve.

SENATOR KEATING stated this bill will require a 2/3 vote on third reading on the Floor because the bond obligation is increasing.

Closing by Sponsor:

REPRESENTATIVE DOUG MOOD, HD 58, SEELEY LAKE, stated this has been a very effective program for our state and our communities. He urged the committee's support.

HEARING ON HJ 8

Sponsor: **REPRESENTATIVE AUBYN CURTISS, HD 81, FORTINE**

Proponents:

Jill Andrews, Montana Mining Association
John Mundinger, Montana Stockgrowers Association
Mike Murphy, Montana Water Resources Association
Larry Dolezal, Lincoln County

Opponents:

Katrina Scheuerman, Monana Audubon Society

Opening Statement by Sponsor:

REPRESENTATIVE AUBYN CURTISS, HD 81, FORTINE, stated this resolution is a 10th Amendment states rights issue. It sends a message to Washington that we resist the federal establishment of a new program which would initiate a new layer of federal involvement in Montana affairs. Although this relates to the Yellowstone River issue, do not be complacent because the Missouri River basin is next. **EXHIBIT (nas54a03)**, **EXHIBIT (nas54a04)**.

Proponents' Testimony:

Jill Andrews, Montana Mining Association, spoke in support of

HJ 8. The American Heritage Rivers Program was announced by President Clinton in his State of the Union Address in 1997. Its purpose was to support communities in their efforts to restore and protect American rivers. It was a worthy endeavor but the devil is in the details. There was a limited public comment period provided. They are concerned it will delay permitting and there were no provisions to protect private property holdings or protect water rights. They urge support of the resolution.

John Mundinger, Montana Stockgrowers Association, spoke in support of **HJ 8.** The resolution speaks for itself. They are concerned about water rights and private property rights and support the resolution for those reasons.

He also spoke on behalf of **Mike Murphy, Montana Water Resources Association,** who also supports the resolution.

Larry Dolezal, Lincoln County, spoke in support of **HJ 8.** He is mainly concerned with protecting state and private property rights as well as water rights. He feels the state is in a better position to oversee those things.

Opponents' Testimony:

Katrina Scheuerman, Monana Audubon Society, stated the American Heritage Rivers initiative supports community led efforts to rivers to protect natural resources, the environment and to preserve historic and cultural heritage. The initiative is voluntary and is driven by the needs and desires of communities that wish to participate which can be terminated at any time. The initiative will not create new regulatory requirements or rules for property owners or state, tribal or Local Government. The Administration assures that private property, water and other rights are respected and protected under the American Heritage River Initiative. **EXHIBIT(nas54a05).**

Questions from Committee Members and Responses:

SENATOR COLE questioned if there were any rivers designated at this time? **REP. CURTISS** said yes. **SEN. COLE** stated this was not a dead issue. **REP. CURTISS** stated that was correct and the President has increased the number of rivers he initially announced for designation from 10 to 20. **SEN. COLE** asked if she was aware how many rivers may be designated in the next round? **REP. CURTISS** stated that is up for speculation.

Closing by Sponsor:

REPRESENTATIVE AUBYN CURTISS, HD 81, FORTINE, said the stated goals sound very benevolent and only upon closer examination do concerns rise over the creation of yet another river governance agency and provide for a new layer of bureaucracy which grants at least twelve federal regulatory agencies a new dimension of involvement in Montana water issues. At a December meeting in Seattle, they were told the Endangered Species Act and the Clean Water Act have between 60-80% overlap in administrative authorities. Critics of the initiative consider it unnecessary, wasteful, and the establishment of a foothold by the Federal Government to interfere with the state and local management of privately owned lands and waters.

HEARING ON HJ 11

Sponsor: **REPRESENTATIVE AUBYN CURTISS, HD 81, FORTINE**

Proponents:

John Mundinger, Montana Stockgrowers Association
Mike Murphy, Montana Water Resources Association
Don McIntyre, Attorney, Department of Natural Resources and Conservation
Larry Dolezal, Lincoln County

Opponents: None.

Opening Statement by Sponsor:

REPRESENTATIVE AUBYN CURTISS, HD 81, FORTINE, stated the Montana Constitution says all waters within the boundaries of the state are property of the State of Montana.

Proponents' Testimony:

John Mundinger, Montana Stockgrowers Association, stated the Stockgrowers support this resolution because of a concern of water issues at a federal level which have potential to conflict with the state's responsibility for water programs. The state's responsibility for water programs has been well recognized by Congress and they would like to urge the state to continue to own that tradition.

He also spoke on behalf of **Mike Murphy, Montana Water Resources Association,** who also supports the resolution.

Don McIntyre, Attorney, Department of Natural Resources and Conservation, stated DNRC is charged by law with the allocation of water resources in the State of Montana. The Federal Government has deferred to the allocation systems that have developed within the western states and Montana. This bill simply seeks to encourage that will continue and the Federal Government not come in and change the laws that have governed western water allocation since the territorial days.

Larry Dolezal, Lincoln County, spoke in support of **HJ 11.** He feels the state is in a better position to manage and control water resources and also fisheries. In Lincoln County, the reservoir behind Libby Dam and the resources managed in that river system have been under controversy and some debate between state and federal managers for some time but Montana's Fish, Wildlife & Parks endeavor to employ sound science in the management of fisheries. The state recently won a court ruling that indicates that employing sound science in fisheries management shows the State of Montana has a superior means of pursuing control.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

SENATOR COLE referred to page 2, line 9 of the bill and questioned would "any new or revised" indicate we would be looking at a new policy and not recognize reserved water rights anymore? **Mr. McIntyre** stated it was clearly Montana's position that federal reserved water rights, as a matter of federal law, are recognized within the State of Montana as they are all of the states. It continues to recognize reserved water rights as they do today with the compact commission. **SEN. COLE** asked if this was going to help the state that much? **Mr. McIntyre** said that we, as a state, are not going to change the laws of Federal Government. There have been movements in the past within various agencies to create new theories of law under which to create more federal rights within the states. The states would then have to recognize those attempts should fail.

Closing by Sponsor:

REPRESENTATIVE AUBYN CURTISS, HD 81, FORTINE, stated the Senate and House leadership assigned various members to serve on a task force on river governance who will meet in Spokane on March 19 and 20 for the purpose of trying to keep the legislatures within the loop. Resolutions send a message and they hope it will reiterate our right to control our water.

{Tape : 1; Side : A; Approx. Time Counter : 4.4 - 30; Comments : None.}

HEARING ON HJ 17

Sponsor: REPRESENTATIVE AUBYN CURTISS, HD 81, FORTINE

Proponents:

John Hossack, O & H Lumber, Eureka
Larry Dolezal, Former Lincoln County Commissioner
Jill Andrews, Montana Mining Association
Lorna Karn, Montana Farm Bureau
Cary Hegreberg, Montana Wood Products Association

Opponents: None.

Opening Statement by Sponsor:

REPRESENTATIVE AUBYN CURTISS, HD 81, FORTINE, stated again we are in a position of having to protect ourselves from Presidential executive orders over which neither the states nor U.S. Congress has been consulted. This resolution is patterned after ones adopted by the Lincoln County Commissioners and later by the Montana Association of Counties last September. Draft impact statements were studied for about eight months. What was learned lead to much concern about the twelve Montana counties lying within the basin. **EXHIBIT**(nas54a06).

Proponents' Testimony:

John Hossack, O & H Lumber, Eureka, stated he had spent his whole life in forestry. He supports the resolution to terminate the **Interior Columbia Basin Ecosystem Management Project (ICBEMP)**. He cannot support the interior Columbia River management plan. **ICBEMP** has the potential to be the greatest major disaster related to forestry since the 1910 fires. It will not restore forest health and it will not support the economic and social needs of people, cultures and communities. The purpose of **ICBEMP** was to emulate nature and move the landscape towards conditions that existed prior to European occupation of the region in 1800. This land currently supports more people at a higher standard of living than existed in the 1800's. Montana has a streamside management law that is non-exclusionary. Management for 300 feet

on both sides of any of these streams would be included in **ICBEMP**.

Larry Dolezal, Former Lincoln County Commissioner, stated he worked with the Coalition of Counties of Washington, Oregon, Idaho and Montana and five federal agencies to put together input and bring about a project that would take a balanced view of social economic needs as well as dealing with the landscape and the wildlife within the Columbia River Basin. Over 80% of the land base in Lincoln County is public lands. Their major revenues come from forest receipts and payment in lieu of taxes which are generated from these public lands. **ICBEMP** means even more quality jobs will be lost while industrial employers will also be lost. More mines and more mills will be closed. There will be further declines in their tax base as they see their top taxpayers drop off the tax rolls. This equates to even more revenues that will be lost for schools and for counties that fund critical infrastructure that support vital education and transportation services without which our local rural communities would become threatened.

Jill Andrews, Montana Mining Association, spoke in support of **HJ 17**.

Lorna Karn, Montana Farm Bureau, stated she feels this is a good piece of legislation. The second and third Whereas' talk about the ecosystem being very diverse and complex, however, one size does not fit all. In this case, it is such a big area that is more than true. She urges the committee's support.

Cary Hegreberg, Montana Wood Products Association, stated their association had worked very hard on this issue over the past year and they feel it is important to make a statement to the Federal Government that states and counties want to have a role in the management of these federal lands. He urged the committee's support.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

SENATOR COCCHIARELLA questioned page 2, line 10 of the bill and wondered if that was supported by fact or is it an opinion? **REP. CURTISS** stated she did not draft the document, the counties that had been involved for four years drafted it. She felt if the political aspect surfaces it is because it is a Presidential Initiative and there has not been participation by Congress and very little participation by the State Legislators. **SEN. COCCHIARELLA** referred to page 2, line 26 and asked for

explanation. It sounds contradictory and goes against the tone of the resolution. **REP. CURTISS** stated Congress did shut off the funding in the big appropriation bill at the end of 1997. Upon the efforts of **SEN. BAUCUS** and **Patty Murray** from Washington State, were instrumental in getting that money put back in. **ICBEMP** does nothing for actually protecting the resources, it is a preservation of resources. **SEN. COCCHIALRELLA** referred to page 3, line 14 where it states "**ICBEMP** draft documents fail to adequately and truthfully define and disclose". She feels this is calling someone a liar and that is a risk if there is to be credibility for the resolution. **REP. CURTISS** stated this is a matter of opinion. People who have studied the document at length say this is very dangerous and threatens our economy. She referred to **EXHIBIT (nas54a07)**. **SEN. COCCHIARELLA** said her major concern was with the three Whereas' she mentioned and how would the sponsor feel if she offered amendments to make the resolution not so inflammatory so as not to risk the challenge of loss of credibility. **REP. CURTISS** said that would be her prerogative but the statistics involved in making up the resolution can be backed up by fact. She submitted to the committee the resolution was factual even though it may offend our sensibilities. **SEN. COCCHIARELLA** stated she could not vote for the resolution in the form it is in because she does not believe in speaking that way without having supportive information to people. She does have a concern about the information presented as it affects her community as well.

Closing by Sponsor:

REPRESENTATIVE AUBYN CURTISS, HD 81, FORTINE, stated economic development and creation of jobs might be called the linch pin of this legislative session. Economists have said Montana's economic stability depends upon utilization of our abundant resources and a more balanced system of taxation. This resolution, if passed and heeded, will do more to achieve that stability than millions of dollars thrown into economic grants and loans. How long can you keep circulating the same dollars because no new wealth is being created? Montana has the resources, the workers who need jobs, and Montanans have the will to protect this last best place. She urged concurrence.

{Tape : 1; Side : B; Approx. Time Counter : 0 - 21.9; Comments : None.}

EXECUTIVE ACTION ON HB 331

Motion/Vote: SEN. KEATING moved that HB 331 BE CONCURRED IN. Motion carried 8-1 with Mahlum voting no. SENATOR ROUSH will carry bill to Senate floor.

EXECUTIVE ACTION ON HB 346

After discussion by the committee, it was decided to wait to do executive action on this bill until next week.

{Tape : 1; Side : B; Approx. Time Counter : 21.9 - 28.7; Comments : None.}

EXECUTIVE ACTION ON HB 58

Motion: SEN. COLE moved that HB 58 BE CONCURRED IN.

Motion: SEN. GROSFIELD moved that HB 58 AMENDMENTS HB005801.ALM BE ADOPTED. **EXHIBIT**(nas54a08).

Discussion:

SENATOR COCCHIARELLA stated she holds the same concern as she did in the hearing that a private property owner shares some responsibility of the cleanup of an underground storage tank. If this amendment is added does that mean Burlington Northern is completely off the hook for any share of the responsibility of that cleanup? Mr. Mitchell stated not totally as they would still be subject to the cost reimbursement, the half of the first \$35,000 of remediation like any private tank owner would be.

Vote: Motion that AMENDMENTS HB005801.ALM BE ADOPTED carried 10-0.

{Tape : 1; Side : B; Approx. Time Counter : 28.7 - 40; Comments : None.}

Motion: SEN. GROSFIELD moved that HB 58 AMENDMENTS HB005802.ALM BE ADOPTED. **EXHIBIT**(nas54a09).

Vote: Motion that AMENDMENTS HB005802.ALM BE ADOPTED carried 11-0.

Motion/Vote: SEN. COLE moved that HB 58 BE CONCURRED IN AS AMENDED. Motion carried 10-1 with Mahlum voting no. SENATOR COLE will carry bill to Senate floor.

EXECUTIVE ACTION ON HB 142

Motion: SEN. KEATING moved that HB 142 BE CONCURRED IN.

Motion: SEN. WILSON moved that HB 142 AMENDMENTS HB014201.ALM BE ADOPTED. **EXHIBIT**(nas54a10).

Discussion:

SENATOR WILSON discussed the proposed amendment as per (EXHIBIT 10). His reasoning for proposing the amendment is he feels the rules are being changed in mid-stream. There are several people that participated in Environmental Assessments and Environmental Impact Statements and testified in good faith. He feels it is unfair they be cut out with this bill at this time. The amendment would eliminate the retroactive applicability provision of the bill.

SENATOR KEATING questioned the effects of the amendment. Tom Butler, Legal Counsel, Department of Environmental Quality, stated he felt the amendment was accurately described in that it would remove the retroactive applicability portion of the bill. The issue preclusion and evidentiary preclusion portions of the bill would not kick in until after passage and approval of HB 142. SENATOR KEATING questioned why was the retroactive applicability put into the bill in the first place? Mr. Butler stated it was added for various MEPA review documents being prepared under this interpretation of the bill and if there is no retroactivity clause, they have to go back and supplement some of the environmental reviews.

SENATOR COLE questioned if he had reviewed this amendment? Mr. Simonich stated he saw the amendment about 30 minutes ago. He believed SEN. WILSON explained the scope of the amendments. He clarified that any individual involved in the MEPA process so far with good intent would not be precluded from being involved. The intent of the issues involved is for new evidence and new issues. If they have already been involved, they are in. SEN. COLE stated if they are already included he is wondering if the amendments are needed and if they would be beneficial.

SENATOR GROSFIELD questioned if there was anything in particular he had in mind with the amendment? SEN. WILSON stated not

necessarily but the way he understands the bill is there are several things being overhauled in **MEPA**. The people came in under a certain set of rules and started the process, now we are changing it. The amendment is just a blanket approach in that regard.

Vote: Motion that **AMENDMENTS HB014201.ALM BE ADOPTED failed 4-7** with **Crismore, Mahlum, Cole, Grosfield, Keating, Miller and Taylor** voting no.

Motion: **SEN. COCCHIARELLA** moved that **AMENDMENTS HB014202.ALM BE ADOPTED. EXHIBIT(nas54a11)**

SENATOR COCCHIARELLA stated these amendments were to be carried by someone else on the committee who changed their mind. She stated she had served on the **Environmental Quality Council** for six years. To serve in that process, education moderates. If you come in as an extreme environmentalist you do not leave the same way. There are extremes from both sides who serve on **EQC**. If you leave there without a sense of what is right about all sides and perspectives then you have not listened and paid attention. She does not like **MEPA** bills because she believes in the **EQC** process. She believes this is the wrong approach and she feels people involved in the **EQC** process know in their hearts that if **EQC** had taken on the project of reviewing **MEPA**, there would be a bigger, better and broader package of legislation than this piece meal attack on certain elements of the **MEPA** process.

She believes, after serving on **EQC**, the permitting does not work. The rules by the Departments and agencies have caused them to virtually stop anything from happening in Montana when it is legitimate and right and it can benefit all citizens and be Constitutional. **MEPA** is a tool and the right tool to use. The process has been eroded and needs thorough review by **EQC**. The whole process needs review not just a bandaid approach. She is in favor of adopting the Attorney General's amendments to help slow down the destruction of **MEPA** which has been a good tool that used to be able to be used to make good decisions. This is a wrong thing to do to this whole process for both sides of this issue.

SENATOR KEATING stated he appreciated **SEN. COCCHIARELLA'S** feelings and all the good work she had done on **EQC**. He has also been around the **MEPA** process for a long time. Many times the usual process of beneficial development was hindered by the use of **MEPA** as a tool to obstruct development and the economic growth in Montana. He has worked without attacking **MEPA** in total at anytime. He has worked to refine **MEPA** in various areas where

certain groups wanted to stop industry and growth and wanted to stop livelihoods for people by using this as a tool of obstruction. They do it in the courts, by complaints and there are delays that make projects that are perfectly safe to the environment uneconomical and we lose the activity with the discouragement. Now these groups, even with the changes in **MEPA** over the years, use the procedure to inhibit perfectly good projects. Now they have come down to stopping the Department of State Lands from properly harvesting forests. They use the procedure to harass and undermine the permitting process of the Department, which is working for the benefit of all Montanans. The money derived from those projects and the harvest of the forest is for the benefit of education and the benefit of the people of Montana as required under the Constitution. Yet there are certain groups that will use this procedure to inhibit unnecessarily. If they had good reason to stop the project that is one matter, but when they do not have good reason to stop the project that is quite another. These amendments by the Attorney General are only to replace those obstructions that we are trying to remedy in this so the Department of State Lands can do what they are required to do under the Constitution and what others want to do for the benefit of the state as a whole. He urges the committee to reject the amendments to pass this bill as is and let everyone get back to work.

SENATOR TAYLOR stated since he was to carry the amendments originally, he wanted to explain what he was trying to do. He does not want to see a legal relief act. When you try to start balancing the right and left it becomes difficult. That is the purpose of trying to find common ground. When he reviewed the amendments he felt they took more out of the bill to tilt it more to one side than the other. It is important that all sides of every issue come to middle ground without involving the legal profession to the point that everyone loses.

SENATOR COLE agreed the amendments do not help the bill. The bill is the center and will be beneficial to the State of Montana and he hopes the committee does not pass the amendments.

SENATOR GROSFIELD feels several of the amendments are problematic and referred especially to amendment #4 where he felt a separation of powers issue was being set up. He felt the court would be getting in the middle of the administrative duties of the agency. He does not feel we want to do that. Amendments 8 and 9 talk about a similar situation where the Court will run the Department. He feels the bill is better off without the amendments.

Vote: Motion that **AMENDMENTS HB014202.ALM BE ADOPTED** failed 4-7 with **Senators Crismore, Mahlum, Cole, Grosfield, Keating, Miller and Taylor** voting no.

Motion/Vote: **SEN. KEATING** moved that **HB 142 BE CONCURRED IN**. Motion carried 6-5 by Roll Call Vote with **Senators Mahlum, Cocchiarella, McCarthy, Roush and Wilson** voting no. Senator **Keating** will carry bill to Senate Floor.

{Tape : 2; Side : A; Approx. Time Counter : 0 - 22; Comments : None.}

ADJOURNMENT

Adjournment: 5:20 P.M.

SEN. WILLIAM CRISMORE, Chairman

JYL SCHEEL, Secretary

WC/JS

EXHIBIT (nas54aad)